IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 25052 of 2002

Between:
Smt. Uma Rani w/o Shyam Sunder Goud
bearing no. AP 28T-8022, R/o Boyapalli Village,
Mahaboobnagar

..... PETITIONER

AND

1 The Deputy Commissioner of Proh & Excise Mahaboobnagar Division, at Mahaboobnagar
2 The Inspector of Proh & Excise (SHO) Mahaboobnagar circle, at Mahaboobnager
3 The Commissioner of Proh & Excise, at Nampally, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings vide Cr. No. B1/1435/2001 dt 29-10-2002 of the 1st respondent in respect of petitioner's EICHER VAN bearing No. AP 28-T-8-022 of the 1st respondent in PCR No. 274/2001-2002 dt 31-08-2001 as illegal and consequently direct the 1st respondent to return the deposit made by the petitioner during made by the petitioner during the pendency of confiscation proceedings in respect of the petitioner's EICHER VAN bearing No. AP 28-T-8022

Counsel for the Petitioner :MR.B.SAI RAM GOUD, Advocate

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court Made the Following :

ORDER:

When the petitioner's vehicle was seized for illegal transportation of toddy the Dy.Commissioner ordered for release of vehicle on furnishing Bank guarantee of Rs.2,00,000/- which was confirmed by this Court in W.P.No.1710 of 2001, dated 12.11.2001 and after furnishing the Bank guarantee of Rs.2,00,000/-,the vehicle was released in his favour. He filed an appeal for reduction of the Bank guarantee before Commissioner of Prohibition and Excise. The Commissioner of Prohibition and Excise, Mahabubnagar vide Cr.No.B1/1435/2001, dated 23.11.2001 directed the Deputy Commissioner of Prohibition and Excise, Mahabubnagar to pass final orders within a period of one month.

In view of the above direction, the Deputy Commissioner of Prohibition and Excise, through the impugned order, dated 29.10.2002 ordered confiscation of the vehicle observing that even after lapse of one year, the petitioner failed to submit explanation to the show cause notice issued for confiscation of the vehicle on 07.09.2001, which was served on 27.09.2001. In view of the same, he straight away passed the order of confiscation of the vehicle. Hence, the petitioner has come up with the present writ petition.

It appears from the order that on the directions issued by the Commissioner of Prohibition and Excise, no notice was issued to the petitioner to appear for the enquiry, and straight away the order has been passed.

In view of the same, the impugned order is set aside subject to the condition that the petitioner shall submit his explanation to the Deputy Commissioner of Prohibition and Excise within a period of two weeks from the date of receipt of a copy of this order. On filing such explanation, the Deputy Commissioner of Prohibition and Excise shall

give a further date of hearing to the petitioner for his participation in the enquiry and pass appropriate orders.

Accordingly, the writ petition is allowed. No order as to costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Twenty Ninth day of June, Two Thosuand Four.

29-06-2004
klp

ASSISTANT REGISTRAR

//True copy//

SECTION OFFICER

To
1 The Deputy Commissioner of Proh & Excise Mahaboobnagar Division, at Mahaboobnagar
2 The Inspector of Proh & Excise (SHO) Mahaboobnagar circle, at Mahaboobnager
3 The Commissioner of Proh & Excise, at Nampally, Hyderabad
4. Two C.Cs to G.P. for Prohibition & Excise, High Court buildings, Hyderabad(OUT)
5. Two C.Ds.